

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2010-008121-001 DT

05/20/2011

HONORABLE JAMES T. BLOMO

CLERK OF THE COURT
L. Talbo
Deputy

STATE OF ARIZONA

RACHEL PHIPPS-YONAS

v.

JAMIE THOR MCNEAL (001)

HOWARD A SNADER

VICTIM SERVICES DIV-CA-CCC

MINUTE ENTRY

Jamie McNeal (defendant) is charged with eleven separate counts. Count 9 alleges Sexual Assault a Class 2 Felony. The defendant, at his Initial Appearance, was determined to be non-bondable pursuant to A.R.S. § 13-3961. A.R.S. § 13-3961(A) states:

A. A person who is in custody shall not be admitted to bail if the proof is evident or the presumption great that the person is guilty of the offense charged and the offense charged is one of the following:

1. A capital offense.
2. Sexual assault.
3. Sexual conduct with a minor who is under fifteen years of age.

Defense counsel requested a hearing pursuant to *Simpson v. Owens*, 207 Ariz. 261, 85 P.3d 478 (App. 2004) ("*Simpson*") on the issue of the defendant being held non-bondable. *Simpson* was based on the requirement that the proof is evident or presumption great that defendant committed one of the crimes enumerated in A.R.S. § 13-3961(A).

This case is a re-file of an earlier case, cause number CR2008-101468-001, that went to trial resulting in a hung jury. During the trial, one of the victims, RJ, disclosed for the first time an incident of oral sexual contact. After the jury was unable to reach a verdict the state re-

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indicted the defendant and included a charge of Sexual Assault, a class 2 felony based on RJ's trial testimony.

The parties stipulated that the court would review and make a determination of proof evident/presumption great on the transcripts of the victim's trial testimony (exhibits 3 through 8), the video tapes of the victim's initial police interviews (exhibit 1 and 2), and an audio recording of the confrontation call (exhibit 9) where the defendant admits that he touched the victims. That he had sex with one of the victims. The defendant stated in the confrontation call: "swear to God that it would never happen again."

Based on the Court's review of the transcripts, video tapes and audio tape the court finds proof evident/presumption great that the defendant committed the crime of Sexual Assault a Class 2 Felony (count 9).

IT IS ORDERED that the defendant continue to be held non-bondable pursuant to A.R.S. § 13-3961 and Article 2 Section 22 of the Arizona State Constitution.